IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 227 OF 2007

Ms. Rohat Boman Bozargi .. Petitioner

V/s

Ms. Shirin Naemi @ Shirin wd/o Rustom Ardeshir Phirozemand & Ors. .. Respondents

None for the petitioner.

Mr.Y.S. Bhate for the respondents no.1 to 4.

CORAM : D.G. KARNIK, J.

DATE : 1ST NOVEMBER 2007

P.C. :

1. None present for the petitioner. Heard learned counsel for the respondents.

2. By this petition, the petitioner alleges that the respondents have committed a breach of the undertaking given by the respondents to the Court on 30th November 2006 to hand over the keys of the suit premises and also to pay the arrears.

3. Learned counsel for the respondents invited my attention to the letter dated 7th December 2006 written by the respondents' advocate to the petitioner's

advocate whereunder the keys of the premises as well as the pay order for the arrears as also the other documents were handed over to the petitioner. The receipt of the letter is admitted and the petitioner's counsel has also signed on the said letter by making the following endorsement:-

> "Recd without prejudice and without checking contents and subject to verification by the client."

Thereafter, the petitioner's advocate wrote a letter to the respondents' advocate on 21st December 2006 wherein the receipt of the keys and the articles was admitted. It was however alleged that the keys did not work and the suit premises could not be opened with the keys. This was denied by the petitioner's advocate by his letter dated 15th January 2007. It is thus clear that according to the respondents, they have handed over the possession of the suit premises. The receipt of the pay order and the documents is not denied.

4. In the circumstances, no case for exercising contempt jurisdiction is made out. If according to the petitioner he has not received the possession of the suit premises, it is open for the petitioner to execute the decree. With these observations, the contempt

petition is dismissed.

5. After this order was dictated in open court, counsel for the petitioner appeared. I then offered him an opportunity of hearing the matter afresh by recalling the order. He however declined to have that opportunity. Hence, no further orders are necessary.

(D.G. KARNIK, J.)